Section 303DB of the Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act) provides for the establishment of a list of exempt native specimens. Specimens included in the list are exempt from the trade control provisions that apply to regulated native specimens.

The effect of this instrument is to revoke the conditions to which the inclusion of the following item on the list of exempt native specimens on 20 October 2004 is subject:

- Specimens that are, or are derived from, fish or invertebrates, other than specimens listed under Part 13 of the Act, taken in the Southern and Eastern Scalefish and Shark Fishery.

and impose the following conditions to which the inclusion of the specimens in the list is subject:

- by 23 December 2009, AFMA to implement interim management measures, which will include voluntary fishery closures, increased observer coverage in areas adjacent to Australian Sea Lion colonies and other actions designed to mitigate the impact of fishing activity on Australian Sea Lions
- the specimen, or the fish or invertebrate from which it is derived, was taken lawfully; and
- the specimens are included on the list until 19 February 2010.

Revoking the conditions and imposing the above conditions to which the inclusion of the specimens in the list of exempt native specimens is subject will allow continued export of these specimens until 19 February 2010.

In determining to include the specimens on the list of exempt native specimens regard was had to the Australian Government’s Guidelines for the Ecologically Sustainable Management of Fisheries. Those Guidelines establish the criteria for assessment of the ecological sustainability of the relevant fisheries management arrangements.

Subsection 303DC(3) of the EPBC Act provides that before amending the list, the Minister for the Environment, Heritage and the Arts must consult such other Commonwealth Minister or Ministers and such other Minister or Ministers of each State and self-governing Territory, as the Minister considers appropriate. The Minister may also consult with such other persons and organisations as the Minister considers appropriate. The proposal to amend the list of exempt native specimens was advertised on DEWHA’s website and comment was invited from interested people for a period of 33 days. All comments received were taken into account in the decision to include the fishery on the list of exempt native specimens.

This instrument is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The instrument commenced on the day after it was registered on the Federal Register of Legislative Instruments.